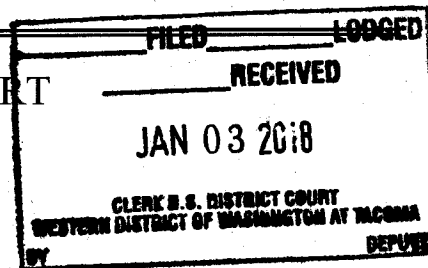


UNITED STATES DISTRICT COURT

for the

Western District of Washington



In the Matter of the Search of
*(Briefly describe the property to be searched
 or identify the person by name and address)*

The Facebook account with user ID
 /Katherine.Thomas.104418

Case No. MJ18-5001

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property *(identify the person or describe the property to be searched and give its location)*:

See Attachment A, attached hereto and incorporated by reference herein.

located in the Western District of Washington, there is now concealed *(identify the person or describe the property to be seized)*:

See Attachment B, attached hereto and incorporated by reference herein.

The basis for the search under Fed. R. Crim. P. 41(c) is *(check one or more)*:

- ☒ evidence of a crime;
☐ contraband, fruits of crime, or other items illegally possessed;
☐ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

<i>Code Section</i>	<i>Offense Description</i>
21 USC 841(a)(1) and 846	Distribution of and Conspiracy to Distribute Controlled Substances

The application is based on these facts:

See Affidavit of DEA Special Agent Samuel T. Landis.

- ☒ Continued on the attached sheet.
☒ Delayed notice of 365 days (give exact ending date if more than 30 days: 01/02/2019) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Applicant's signature

Samuel T. Landis, Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 1/3/18

City and state: Tacoma, Washington

Judge's signature

J. Richard Creatura, United States Magistrate Judge

Printed name and title

I, Samuel T. Landis, Special Agent, Drug Enforcement Administration (DEA),
United States Department of Justice, being first duly sworn on oath, depose and state:

1. I am an "investigative or law enforcement officer of the United States" within the meaning of Title 18, United States Code, Section 2510(7), that is, an officer of the United States who is empowered by law to conduct investigations of, and to make arrests for, offenses enumerated in Title 18, United States Code, Section 2516.

2. I am a Special Agent with the Drug Enforcement Administration (DEA), and have been so employed since March of 2016. I am currently assigned to the Seattle Field Division, Tacoma Resident Office. Prior to my employment with the DEA, I was employed as a Border Patrol Agent from November 2009 to March 2016.

3. I received formal training at the DEA Basic Agent Training Academy in Quantico, Virginia. The 22-week training included comprehensive, formalized instruction in, among other things: basic narcotic investigations, drug identification and detection, familiarization with United States narcotics laws, financial investigations and money laundering, identification and seizure of drug-related assets, organized crime investigations, physical and electronic surveillance, and undercover operations. In addition to Basic Agent Training, I have completed Money Laundering Training, Traps and Concealed Compartments Training, and other various courses that have familiarized me with investigations of drug trafficking organizations, methods of importation and distribution of controlled substances, and financial investigations.

4. During the course of my law enforcement career, I have been involved in investigations of narcotics offenses, including offenses involved in this current investigation. I have participated in criminal investigations of drug-trafficking

1 organizations (DTOs), ranging from street-level dealers to larger dealers, including
2 Mexican-based DTOs. These investigations have included the unlawful importation,
3 possession with intent to distribute, and distribution of controlled substances; the related
4 laundering of monetary instruments; the conducting of monetary transactions involving
5 the proceeds of specified unlawful activities; and conspiracies associated with these
6 offenses.

7 5. As noted above, prior to my employment with the DEA, I was employed
8 with the United States Border Patrol as a Border Patrol Agent for more than six years.
9 During my time as a Border Patrol Agent, I intercepted narcotics from narcotics
10 traffickers/smugglers as part of my regular duties. Furthermore, I assisted the DEA and
11 Homeland Security Investigations with mid- and upper-level drug investigations in at
12 least fifteen cases. My experience as a Border Patrol Agent familiarized me with the
13 methods used by narcotics traffickers/smugglers to transport narcotics to transport
14 narcotics, firearms, and bulk currency into and out of the United States.

15 **PURPOSE OF AFFIDAVIT**

16 6. This Affidavit is submitted in support of an application for a search warrant
17 under Title 18, United States Code, Sections 2703(a), 2703(b)(1)(A), and 2703(c)(1)(A)
18 to require Facebook to disclose to the government records and other information in its
19 possession, pertaining to the subscriber or customer associated with the following
20 Facebook account (the "SUBJECT ACCOUNT"):

21 a. Facebook user ID /Katherine.Thomas.104418 registered under the
22 name KATHERINE THOMAS.

23 7. All of the requested information is stored at premises owned, maintained,
24 controlled, or operated by Facebook, a social networking company headquartered in
25 Menlo Park, California. The information to be searched is described in the following
26 paragraphs and in Attachment B. This is the first application for a search warrant of the
27 SUBJECT ACCOUNT in this investigation.
28

FACEBOOK INFORMATION STORAGE

8. I am aware from my experience and training, and consultation with other investigators, of the following information about Facebook:

9. Facebook owns and operates a free-access social networking website of the same name, accessed at <http://www.facebook.com>. Facebook allows its users to establish accounts with Facebook, and users can then use their accounts to share written news, photographs, videos, and other information with other Facebook users, and sometimes with the general public.

10. Facebook asks users to provide basic contact and personal identifying information to Facebook, either during the registration process or thereafter. This information may include the user's full name, birth date, gender, contact e-mail address(es), Facebook passwords, Facebook security questions and answers (for password retrieval), physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers. Facebook also assigns a user identification number to each account.

11. I know from speaking with other law enforcement that "cookies" are small files placed by a server (such as those used by Facebook) on a device to track the user and potentially verify a user's authentication status across multiple sites or webpages. This cookie could be unique to a particular account (e.g., the Facebook account) or to a given device (e.g., the particular phone used to access the Facebook account). The next time a user visits a particular site or server, the server will ask for certain cookies to see if the server has interacted with that user before. Cookies can also be used to determine "machine cookie overlap," or multiple accounts that have been accessed by the same individual machine (e.g., two Facebook accounts that have been accessed on the same phone). The machine cookie overlap thus allows Facebook to track accounts that are "linked" to each other because the same user account (username on a computer) on the same device accessed multiple Facebook accounts. This can identify either multiple Facebook accounts used by the same person or used by different people

1 sharing the same user account and device. In either case, the machine cookie overlap
2 means that the users of the linked accounts are the same person or two people in close
3 proximity to each other (by virtue of them using the same device).

4 12. Facebook users may join one or more groups or networks to connect and
5 interact with other users who are members of the same group or network. Facebook
6 assigns a group identification number to each group. A Facebook user can also connect
7 directly with individual Facebook users by sending each user a "Friend Request." If the
8 recipient of a "Friend Request" accepts the request, then the two users will become
9 "Friends" for purposes of Facebook and can exchange communications or view
10 information about each other. Each Facebook user's account includes a list of that user's
11 "Friends" and a "News Feed," which highlights information about the user's "Friends,"
12 such as profile changes, upcoming events, and birthdays.

13 13. Facebook users can select different levels of privacy for the
14 communications and information associated with their Facebook accounts. By adjusting
15 these privacy settings, a Facebook user can make information available only to himself or
16 herself, to particular Facebook users, or to anyone with access to the Internet, including
17 people who are not Facebook users. A Facebook user can also create "lists" of Facebook
18 friends to facilitate the application of these privacy settings. Facebook accounts also
19 include other account settings that users can adjust to control, for example, the types of
20 notifications they receive from Facebook.

21 14. Facebook users can create profiles that include photographs, lists of
22 personal interests, and other information. Facebook users can also post "status" updates
23 about their whereabouts and actions, as well as links to videos, photographs, articles, and
24 other items available elsewhere on the Internet. Facebook users can also post information
25 about upcoming "events," such as social occasions, by listing the event's time, location,
26 host, and guest list. In addition, Facebook users can "check in" to particular locations or
27 add their geographic locations to their Facebook posts, thereby revealing their geographic
28 locations at particular dates and times. A particular user's profile page also includes a

1 “Wall,” which is a space where the user and his or her “Friends” can post messages,
2 attachments, and links that will typically be visible to anyone who can view the user’s
3 profile.

4 15. Facebook allows users to upload photos and videos. It also provides users
5 the ability to “tag” (i.e., label) other Facebook users in a photo or video. When a user is
6 tagged in a photo or video, he or she receives a notification of the tag and a link to see the
7 photo or video. For Facebook’s purposes, the photos and videos associated with a user’s
8 account will include all photos and videos uploaded by that user that have not been
9 deleted, as well as all photos and videos uploaded by any user that have that user tagged
10 in them.

11 16. Facebook users can exchange private messages on Facebook with other
12 users. These messages, which are similar to e-mail messages, are sent to the recipient’s
13 “Inbox” on Facebook, which also stores copies of messages sent by the recipient, as well
14 as other information. Facebook users can also post comments on the Facebook profiles
15 of other users or on their own profiles; such comments are typically associated with a
16 specific posting or item on the profile. In addition, Facebook has a Chat feature that
17 allows users to send and receive instant messages through Facebook. These chat
18 communications are stored in the chat history for the account. Facebook also has a Video
19 Calling feature, and although Facebook does not record the calls themselves, it does keep
20 records of the date of each call.

21 17. If a Facebook user does not want to interact with another user on Facebook,
22 the first user can “block” the second user from seeing his or her account.

23 18. Facebook has a search function that enables its users to search Facebook for
24 keywords, usernames, or pages, among other things.

25 19. Each Facebook account has an activity log, which is a list of the user’s
26 posts and other Facebook activities from the inception of the account to the present. The
27 activity log includes stories and photos that the user has been tagged in, as well as
28 connections made through the account, such as “liking” a Facebook page or adding

1 someone as a friend. The activity log is visible to the user but cannot be viewed by
2 people who visit the user's Facebook page.

3 20. Facebook Notes is a blogging feature available to Facebook users, and it
4 enables users to write and post notes or personal web logs ("blogs"), or to import their
5 blogs from other services, such as Xanga, LiveJournal, and Blogger.

6 21. In addition to the applications described above, Facebook also provides its
7 users with access to thousands of other applications on the Facebook platform. When a
8 Facebook user accesses or uses one of these applications, an update about that the user's
9 access or use of that application may appear on the user's profile page.

10 22. Some Facebook pages are affiliated with groups of users, rather than one
11 individual user. Membership in the group is monitored and regulated by the
12 administrator or head of the group, who can invite new members and reject or accept
13 requests by users to enter. Facebook can identify all users who are currently registered to
14 a particular group and can identify the administrator and/or creator of the group.
15 Facebook uses the term "Group Contact Info" to describe the contact information for the
16 group's creator and/or administrator, as well as a PDF of the current status of the group
17 profile page.

18 23. Facebook uses the term "Neoprint" to describe an expanded view of a given
19 user profile. The "Neoprint" for a given user can include the following information from
20 the user's profile: profile contact information; News Feed information; status updates;
21 links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists,
22 including the friends' Facebook user identification numbers; groups and networks of
23 which the user is a member, including the groups' Facebook group identification
24 numbers; future and past event postings; rejected "Friend" requests; comments; gifts;
25 pokes; tags; and information about the user's access and use of Facebook applications.

26 24. Facebook also retains Internet Protocol ("IP") logs for a given user ID or IP
27 address. These logs may contain information about the actions taken by the user ID or IP
28 address on Facebook, including information about the type of action, the date and time of

1 the action, and the user ID and IP address associated with the action. For example, if a
2 user views a Facebook profile, that user's IP log would reflect the fact that the user
3 viewed the profile, and would show when and from what IP address the user did so.

4 25. Social networking providers like Facebook typically retain additional
5 information about their users' accounts, such as information about the length of service
6 (including start date), the types of service utilized, and the means and source of any
7 payments associated with the service (including any credit card or bank account number).
8 In some cases, Facebook users may communicate directly with Facebook about issues
9 relating to their accounts, such as technical problems, billing inquiries, or complaints
10 from other users. Social networking providers like Facebook typically retain records
11 about such communications, including records of contacts between the user and the
12 provider's support services, as well as records of any actions taken by the provider or
13 user as a result of the communications.

14 26. Therefore, the computers of Facebook are likely to contain all the material
15 described above, including stored electronic communications and information concerning
16 subscribers and their use of Facebook, such as account access information, transaction
17 information, and other account information. I believe such information is likely to
18 constitute evidence of the drug trafficking crimes currently under investigation.

19 **SUMMARY OF PROBABLE CAUSE**

20 27. The information set forth in this Affidavit consists of information I have
21 gathered and observed firsthand through the course of this investigation to date, as well
22 as information relayed to me by other law enforcement personnel, my review of law
23 enforcement reports, interviews of witnesses, and my review and analysis of toll records.
24 Since I am submitting this Affidavit for the limited purpose of obtaining authorization to
25 search the SUBJECT ACCOUNT as described herein, I have not included every fact
26 known to me concerning this investigation. I have set forth only the facts that I believe
27 are essential to establish the necessary foundation for the issuance of such warrant.
28

Information Gathered From CS

28. During the month of August 2017, the Bremerton Police Department (BPD) Special Operations Group (SOG) was investigating a suspected local heroin dealer reportedly purchasing heroin from a Hispanic individual in the Snohomish and King County areas. SOG conducted controlled buys from the local dealer, and eventually detained him/her during a traffic stop. During the stop, detectives discovered a large amount of cash, which the dealer claimed he/she owed as a drug "front" to a Mexican drug trafficking organization (DTO). The dealer then agreed to cooperate with law enforcement and was signed up as a Confidential Source (CS).

29. The CS advised SOG that he/she had been selling various controlled substances for several years. According to the CS, he/she has been in contact with a group of Mexicans who sell heroin in the Puget Sound region. Within that organization, the CS connected with a prominent drug trafficker whom the CS knew as "Juan" or "Jose." The CS believes the individual he/she knew as "Juan" was the local leader of the drug distribution at that time, and was later promoted to a larger role in the DTO.

30. BPD Detective (Det) Jordan Ejde located a Facebook account under the name of "Juan Andres CASTRO Valenzuela" that the CS and other local suspected drug dealers were associated with. Det. Ejde questioned the CS about the account and the CS confirmed CASTRO was the male whom he/she referred to as "Juan" or "Jose." The CS also showed Det. Ejde messages confirming that CASTRO was in contact with the CS recently, using the account in his (CASTRO's) name. According to the CS and the Facebook data he/she provided, he/she has been talking to CASTRO via Facebook Messenger for purposes of making drug transactions since approximately June of 2016.

31. A review of the CS's Facebook account showed CASTRO also contacted the CS from additional Facebook accounts under the names of "Rebeca Spencer," "Annel Baker," and "KATHERINE THOMAS." A review of the CS's phone showed CASTRO also used Mexican phone numbers 52-668-199-4039, 52-668-248-4230, 52-668-225-5890, and 52-668-199-5533 to communicate with the CS via text message and voice

1 calls. The "KATHERINE THOMAS" Facebook account and phone number 52-668-199-
2 4039 were CASTRO's most current methods of drug related communications with the
3 CS.

4 32. Det. Ejde and Special Agent (SA) Anthony DelVecchio have confirmed
5 CASTRO's identity via the Washington State Department of Licensing (WADOL).
6 Specifically, CASTRO's WADOL photograph matches that of the individual on the Juan
7 Andres CASTRO Valenzuela Facebook account. Furthermore, according to a law
8 enforcement database, CASTRO was involved as a suspected "cell head" for heroin
9 distribution in the Everett area during a DEA investigation that took place in 2012. SA
10 DelVecchio researched this prior DEA case and found that CASTRO was, in fact, the
11 primary target of investigation within that case.

12 33. CASTRO has used the aforementioned Facebook accounts, as well as
13 various telephone numbers, to set up drug deals with the CS. According to the CS,
14 CASTRO typically arranges the transaction, but sends a Hispanic male to conduct the
15 transaction with the CS. The CS explained that he/she has met several different Hispanic
16 males across the Puget Sound region to conduct these drug transactions. The CS told law
17 enforcement that he/she typically purchased 1-2 ounces of heroin several times per week.

18 34. Recently, after talking to CASTRO and arranging for a heroin purchase, the
19 CS met with an Hispanic male the CS knows as "Miguel." Investigators identified
20 "Miguel" as Jesus Rene SARMIENTO Valenzuela by comparing surveillance
21 photographs of CASTRO DTO members, SARMIENTO's Facebook account, and his
22 visa information from the United States Department of Homeland Security.

23 35. Utilizing the CS, SOG has conducted seven controlled purchases of
24 suspected heroin from CASTRO through SARMIENTO, totaling approximately 136.6
25 grams. Prior to and after each controlled purchase of heroin, detectives searched the CS
26 and his/her vehicle, and provided the CS with pre-recorded SOG funds to make each
27 purchase of heroin. During the course of each controlled purchase, investigators
28 maintained surveillance on the CS. After each purchase, detectives tested the suspected

1 heroin using a NIK test kit with presumptive positive results for the presence of heroin,
 2 and then processed the heroin according to SOG's policies and procedures. For the
 3 second through sixth controlled purchases, detectives recorded the buys with a covert
 4 surveillance camera.

5 ***Undercover Controlled Purchase #1 Utilizing the SUBJECT ACCOUNT***

6 36. In early November 2017, SOG provided DEA agents, including an
 7 undercover agent (the UC) with the various phone numbers and Facebook accounts they
 8 believed CASTRO and SARMIENTO used for drug trafficking purposes.

9 37. On November 14, 2017, the CS sent the UC an invitation to join a group
 10 Facebook Messenger chat session, which linked the UC in communication with the
 11 SUBJECT ACCOUNT. The following is a transcript of the discussion between
 12 CASTRO and the UC. During the conversation, the UC used the terms "brown" and
 13 "piece." From training and experience, agents know heroin to be referred to as "brown"
 14 and an ounce to be referred to as "piece." These terms are common language within the
 15 drug community, and in order to appear knowledgeable and experienced, the UC used
 16 them.

- 17 • UC: "Hello fellas, appreciate the intro"
- 18 • CASTRO: "How are you?"
- 19 • UC: "Besides all the rain, everything is good. Yourself"
- 20 • CASTRO: "good..."
- 21 • UC: "Up for some business this week?"
- 22 • CASTRO: [Thumbs up graphic]
- 23 • UC: "I'd like two pieces of brown, what would that cost"
- 24 • CASTRO: "look, 1 is \$1150...but if you want buy 2 or 3 is \$1075...if you
 25 buy 4 or more is \$1,025"
- 26 • UC: "I want 2. Can we do it Thursday?"
- 27 • CASTRO: "ok"
- 28

- 1 • CASTRO: "yes"
- 2 • UC: "Where do you want me to go?"
- 3 • CASTRO: "Kent, maybe Tacoma..."
- 4 • UC: "OK"

5 38. On November 16, 2017, agents conducted an undercover purchase of
 6 heroin from SARMIENTO at the Krispy Kreme at 4302 Tacoma Mall Boulevard,
 7 Tacoma, Washington. The UC contacted CASTRO on 52-668-199-4039 (Target
 8 Telephone 1 or TT1) and the SUBJECT ACCOUNT prior to this transaction in order to
 9 facilitate the meeting. The UC also contacted SARMIENTO on his telephone, 253-398-
 10 5638 (Target Telephone 3 or TT3), prior to and during this transaction. The following
 11 conversations are noteworthy communications leading up to the controlled purchase of
 12 heroin from CASTRO through SARMIENTO, and include what I believe to be pertinent
 13 interactions with SARMIENTO (known to the UC as "Miguel"), to include statements
 14 SARMIENTO made to the UC during the undercover purchase on November 16, 2017,
 15 obtained through the UC's use of an electronic monitoring device that recorded the
 16 audible interactions between the UC and SARMIENTO.

17 39. From 10:24 a.m. to 10:31 a.m., the UC and CASTRO, using the SUBJECT
 18 ACCOUNT, had the following Facebook messenger conversation:

- 19 • CASTRO: "send me you phone number please"
- 20 • UC: "No problem, 360-362-8770"
- 21 • CASTRO: "ok...I will send text to you"
- 22 • UC: "Sounds good"

23 40. At 10:36 a.m., the UC received a text message from TT1. Between 10:36
 24 a.m. and 11:16 a.m., the UC and CASTRO had the following text message conversation:

- 25 • CASTRO: "I'm in way to camp with my family, my phone service
 26 will be very bad at next hour to tomorrow..."

- CASTRO: "if you need something send text to my cousin Miguel please...253-398-5638"
- UC: "Got it thanks enjoy the camping trip amigo"
- UC: "I'll text him today for sure"
- UC: "Will your guy still be able to get me the 2 today?"
- CASTRO: "Hey"
- UC: "Hey, just asking if your guy can still do 2 today?"
- CASTRO: "What number are you sending me messages from?"
- CASTRO: "but yes, he is ready for you"
- UC: "I'm sending messages from my cell"

41. At 11:15 a.m., the UC texted "Miguel" at TT3. From 11:15 a.m. to 11:35 a.m., the UC and "Miguel" had the following text message conversation:

- UC: "Hey Miguel, this is Steve. I was told to talk to you about doing some business today. Are you good for 2 this afternoon?"
- Miguel: "Yes ok"
- Miguel: "Good"
- Miguel: "at that time are you come by the material"
- UC: "I don't know what time I'll be up there, but can I get 2?"
- Miguel: "Ok"
- Miguel: "I can post-1 p.m."
- UC: "Good"

42. From 1:24 p.m. to 1:42 p.m., the UC and "Miguel" had the following conversation via text message:

- Miguel: "Where are you"
- UC: "I'm in Olympia, you want to meet in Tacoma?"
- Miguel: "Its ok"
- UC: "Do you know where the mall is? I can go there easy."

- 1 • Miguel: "How long you are there"
- 2 • Miguel: "Yes in Tacoma mall ok"
- 3 • UC: "30 minutes"
- 4 • UC: "Meet at the Krispy Kreme?"
- 5 • Miguel: "My gps tell 50 min its ok mh friend"
- 6 • UC: "Sure amigo, that's ok"

7 43. About an hour later, the UC arrived at 4302 Tacoma Mall Boulevard,
 8 Tacoma, Washington (the Krispy Kreme address), and parked facing south. At 2:33 p.m.,
 9 "Miguel" texted the UC that, "In 10 min im, there." Between 2:36 p.m. and 2:41 p.m., the
 10 UC and "Miguel" had the following conversation via text message:

- 11 • UC: "I am parked in a truck at the place"
- 12 • Miguel: "What is your car"
- 13 • UC: "Blue Ford F-150"
- 14 • Miguel: "Ok"
- 15 • Miguel: "I have red car getta"
- 16 • Miguel: "Red car"
- 17 • Miguel: "In 2 min"
- 18 • UC: "Ok"

19 44. Minutes later, the UC observed a red Volkswagen Jetta drive into the
 20 Krispy Kreme and park nearby. A Hispanic male, mid-thirties, with a beard and dark
 21 sweatshirt, motioned for the UC to get into the Jetta. The UC acknowledged, exited his
 22 vehicle, and got into the Jetta's front passenger seat. The Hispanic male introduced
 23 himself as "Miguel," the UC introduced himself as "Steve," and the men shook hands.
 24 They made small talk about the bad traffic in the area, and then "Miguel" asked the UC if
 25 the deal was for "two pieces." The UC nodded his head and handed "Miguel" \$2,150 in
 26 buy money.
 27
 28

1 45. The UC watched “Miguel” count the money, and confirmed the total
 2 amount of \$2,150. “Miguel” gave the UC a plastic baggie that contained suspected
 3 heroin. Shortly thereafter, “Miguel” nodded toward the door and told the UC that he
 4 would “see him next time.” Agents transported the suspected heroin to the DEA Tacoma
 5 Resident Office where it was weighed at approximately 87.4 gross grams.

6 ***Undercover Controlled Purchase #2 Utilizing the SUBJECT ACCOUNT***

7 46. On November 27, 2017, the UC received a text message from CASTRO(
 8 TT1). During this conversation, the UC and CASTRO discussed a future drug transaction
 9 that would later occur on November 30, 2017. The UC said, “I am trying to get money
 10 together for 4...,” meaning he wanted to purchase four ounces of heroin. The UC and
 11 CASTRO (TT1) had the following text message conversation:

- 12 • CASTRO: “amigo, everything it’s ok?”
- 13 • UC: “Amigo, everything is good here. Just got back home. How are
- 14 you doing? This is Steve”
- 15 • CASTRO: “ok...”
- 16 • UC: “Can we do business Thursday?”
- 17 • CASTRO: “yes”
- 18 • UC: “Excellent!”
- 19 • UC: “I am trying to get money together for 4, would that be ok?”
- 20 • CASTRO: “ok”
- 21 • UC: “Cool!”
- 22 • UC: “Anymore camping trips planned amigo?”

23 47. On November 30, 2017, agents conducted an undercover purchase of
 24 heroin from CASTRO, through SARMIENTO, at the Buffalo Wild Wings at 2005 South
 25 320th Street, Federal Way, Washington. The following are noteworthy communications
 26 between the UC and CASTRO while setting up the second controlled purchase, and the
 27 UC’s interactions with SARMIENTO, to include statements SARMIENTO made to the
 28

1 UC during the undercover purchase on November 30, 2017, obtained through the UC's
 2 use of an electronic monitoring device that recorded the audible interactions between the
 3 UC and SARMIENTO.

4 48. At 1:01 p.m., the UC initiated a Facebook Messenger conversation with
 5 CASTRO at the SUBJECT ACCOUNT. The following transcript reflects the discussion
 6 between 1:01 p.m. and 1:26 p.m.:

- 7 • UC: "Hey Amigo, I was able to get the money. Are we still good for
 8 4 today?"
- 9 • CASTRO: "yes"
- 10 • UC: "Very nice, should I contact Miguel like last time?"
- 11 • CASTRO: "yes, or to me..."
- 12 • UC: "Ok, where would you like me to go?"
- 13 • CASTRO: "Deppend what time you can go"
- 14 • CASTRO: "where you live?"
- 15 • UC: "I live near Olympia, south of Tacoma"
- 16 • CASTRO: "ok"
- 17 • UC: "I can get to Tacoma Mall like last time. What do you think?"
- 18 • CASTRO: "what time?"
- 19 • UC: "2:30?"
- 20 • CASTRO: "2:30 you will leave? or 2:30 you will be at Tacoma?"
- 21 • UC: "I will be at Tacoma"
- 22 • CASTRO: "Ok, go"
- 23 • UC: "Ok"

24 49. Using the SUBJECT ACCOUNT, CASTRO told the UC that he changed
 25 the meet location from the Tacoma Mall to the Buffalo Wild Wings at 2005 South 320th
 26 Street, Federal Way, Washington 98003. The following conversation from 2:44 p.m. to
 27 2:46 p.m. includes the location change and subsequent acknowledgement by the UC:
 28

1 • CASTRO: "2005 South 320th Street, Federal Way, WA 98003, EE.
2 UU.¹ is a Buffalo wild wings"

3 • CASTRO: "please go there"

4 • UC: "Ok amigo, headed that way"

5 50. From 2:59 p.m. to 3:43 p.m., the UC and CASTRO, using the SUBJECT
6 ACCOUNT, had the following conversation via Facebook messenger:

7 • CASTRO: "how long you will be there?"

8 • UC: "15 minutes"

9 • CASTRO: "ok"

10 • CASTRO: "You're driving same car?"

11 • UC: "Yes"

12 • UC: "Same car for you?"

13 • CASTRO: "same too"

14 • CASTRO: "my cousin is there waiting for you"

15 • UC: "Ok, good. I'll hurry up."

16 • CASTRO: "how long?"

17 • CASTRO: "??"

18 • UC: "5 minutes"

19 • CASTRO: "ok"

20 • UC: "Where is he parked at Buffalo Wild Wings?"

21 • CASTRO: "yes, just front at mall door."

22 • UC: "ok"

23 • CASTRO: "you're there??"

24 • CASTRO: "??"

25 • UC: "yes, off the exit and am there."

26
27
28 ¹ I know that "EE. UU." is a Spanish-language abbreviation for "Los Estados Unidos," i.e., the United States.

- 1 • CASTRO: "ok ok"
- 2 • CASTRO: "hey what's happening??"
- 3 • UC: "I'm there"
- 4 • CASTRO: "ok"
- 5 • CASTRO: "where you are parked?"

6 51. The UC then drove into the parking area of the Buffalo Wild Wings, and
 7 parked. The UC received two calls from CASTRO. Of note, Facebook Messenger has
 8 telephone call capabilities as well as video chat. The first phone call came through
 9 Facebook Messenger under the SUBJECT ACCOUNT, and the second call came from
 10 TT1. The UC ignored the calls and asked CASTRO, through the SUBJECT ACCOUNT,
 11 "where is he?" CASTRO responded that his cousin was "walking to the car."

12 52. Moments later, the UC identified SARMIENTO walking towards the UC's
 13 vehicle. SARMIENTO was wearing a black baseball cap, dark jacket and sweater, with
 14 black pants. The UC watched SARMIENTO move alongside the passenger side of the
 15 vehicle, and enter the front passenger seat. The UC took \$4,100 in buy money, wrapped
 16 in a plastic bag, from his sweatshirt pocket, and gave it to SARMIENTO, who began
 17 counting it. During his count, the UC asked SARMIENTO what he had done over the
 18 holiday. SARMIENTO smiled, and responded that he had partied with friends at the
 19 "store." The UC asked if he worked at the "store," and SARMIENTO said that he did.
 20 Once SARMIENTO finished counting, he looked at the UC and stated, "\$4,300?" The
 21 UC responded "\$4,100," to which SARMIENTO nodded his head.

22 53. Moments later, SARMIENTO motioned with his hand to drive forward.
 23 The UC nodded and began to drive slowly through the parking lot until SARMIENTO
 24 told the UC to stop. SARMIENTO then reached near his waist and took out a brown
 25 bundle of suspected heroin, tightly wrapped in plastic. SARMIENTO placed the brown
 26 bundle in the plastic bag the money had previously been in and then left it on the floor
 27 near the middle console of the vehicle. SARMIENTO and the UC parted ways after the
 28

1 exchange. Agents transported the suspected heroin to the TRO where it was weighed at
2 approximately 136.1 gross grams.

3 54. Shortly after the UC and SARMIENTO parted ways, CASTRO sent a large
4 “thumbs up” graphic to the UC via the SUBJECT ACCOUNT, indicating a successful
5 drug transaction.

6 55. Later that afternoon, the UC attempted to call the SUBJECT ACCOUNT.
7 CASTRO did not answer the call, but instead initiated a text conversation through the
8 SUBJECT ACCOUNT that lasted from 5:14 p.m. to 5:26 p.m. The following transcript
9 reflects this conversation:

- 10 • CASTRO: “what’s up??”
- 11 • UC: “Nothing important, just appreciate your cousin finding me
- 12 today. It was good”
- 13 • CASTRO: [thumbs up graphic]

14 **INFORMATION TO BE SEARCHED AND THINGS TO BE SEIZED**

15 56. I anticipate executing this warrant under the Electronic Communications
16 Privacy Act, in particular Title 18, United States Code, Sections 2703(a), 2703(b)(1)(A)
17 and 2703(c)(1)(A), by using the warrant to require Facebook to disclose to the
18 government copies of the records and other information (including the content of
19 communications) particularly described in Section I of Attachment B. Upon receipt of
20 the information described in Section I of Attachment B, government-authorized persons
21 will review that information to locate the items described in Section II of Attachment B.

22 57. As indicated in the Application and Order for Non Disclosure that
23 accompany this Affidavit, the government requests, pursuant to the preclusion of notice
24 provisions of Title 18, United States Code, Section 2705(b), that Facebook be ordered not
25 to notify any person (including the subscriber or customer to which the materials relate)
26 of the existence of this warrant for such period as the Court deems appropriate, not to
27 exceed one year. The government submits that such an order is justified because
28

1 notification of the existence of this Order would seriously jeopardize the ongoing
2 investigation. Such a disclosure would give the subscriber an opportunity to destroy
3 evidence, change patterns of behavior, notify confederates, or flee from prosecution.
4 Notifying our targets of the existence of this investigation will likely cause them to
5 destroy evidence, flee the jurisdiction, or alter their methods, thus making it more
6 difficult to dismantle the organization effectively. Notice also could put the CS, UC, and
7 agents working with them in danger. For all the same reasons, I am requesting that the
8 Court allow the government to delay notification of this warrant for the same period, not
9 to exceed one year.

10 58. It is further respectfully requested that this Court issue an order sealing all
11 papers submitted in support of this application, including the application and search
12 warrant, until further order of the Court, for a period not to exceed one year. I believe
13 that sealing this document is necessary because the items and information to be searched
14 and seized are relevant to an ongoing investigation. Premature disclosure of the contents
15 of this Affidavit and related documents may have a significant and negative impact on the
16 continuing investigation and may severely jeopardize its effectiveness.

17 **COMMON CHARACTERISTICS OF DRUG TRAFFICKERS**

18 59. Based on my training and experience, including experience obtained
19 through participation in this and other investigations involving the distribution of
20 controlled substances, including those targeting long-term conspiracies responsible for
21 the distribution of controlled substances, and based upon my consultation with other
22 experienced law enforcement agents and officers, I know that:


23 a. Drug trafficking conspiracies, especially those involving large amounts of
24 narcotics and interstate shipments, usually take place over several months or years, and
25 continue to operate even when enforcement activity results in arrests and/or seizures of
26 drugs and/or money.

27 b. Those involved in the distribution of illicit drugs often communicate by
28 telephone in connection with their illegal activities in order to set up meetings with

1 coconspirators, conduct drug transactions, or to arrange for the transportation drugs or
2 drug proceeds.

3 CONCLUSION

4 60. Based upon the information which has been uncovered during the course of
5 this investigation, and on the advice, experience, knowledge of other agents and officers
6 involved in this investigation, I believe these facts establish probable cause to conclude
7 that the SUBJECT ACCOUNT has been used, and will continue to be used, to facilitate
8 violations of the Controlled Substances Act, specifically distribution of narcotics,
9 conspiracy, and related offenses in the Western District of Washington, and elsewhere, in
10 violation of the Controlled Substances Act, Title 21, United States Code, Sections 841
11 and 846.

12 
13 SAMUEL T. LANDIS,
14 Special Agent
15 Drug Enforcement Administration
16

17 Subscribed and sworn to before me this 3rd day of January, 2018.
18

19 
20 J. RICHARD CREATURA
21 UNITED STATES MAGISTRATE JUDGE
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ATTACHMENT A

Property to Be Searched

This warrant applies to information associated with the following account, identified by Facebook user ID: /Katherine.Thomas.104418 (the "SUBJECT ACCOUNT"), for all such information that is stored at premises owned, maintained, controlled, or operated by Facebook, a company headquartered in Menlo Park, California. This warrant is limited to information created after June 1, 2016.

ATTACHMENT B**Particular Things to be Seized****I. Information to be disclosed by Facebook**

To the extent that the information described in Attachment A is within the possession, custody, or control of Facebook, including any messages, records, files, logs, or information that have been deleted but are still available to Facebook, or have been preserved pursuant to a request made under Title 18, United States Code, Section 2703(f), Facebook is required to disclose the following information to the government for the user ID listed in Attachment A (the "SUBJECT ACCOUNT"):

A. The following information about the customer or subscriber of the SUBJECT ACCOUNT:

- (a) All contact and personal identifying information, including full name, user identification number, birth date, gender, contact e-mail addresses, Facebook passwords, Facebook security questions and answers, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers.
- (b) All activity logs for the SUBJECT ACCOUNT and all other documents showing the user's posts and other Facebook activities;
- (c) All photos and videos in their original format, including EXIF information (metadata), uploaded by that user ID and all photos and videos in their original format, including EXIF information (metadata), uploaded by any user that have that user tagged in them;
- (d) All other records of communications and messages made or received by the user, including all private messages, chat history, calling history, and pending "Friend" requests;
- (e) All "check ins" and other location information;
- (f) All IP logs, including all records of the IP addresses that logged into the SUBJECT ACCOUNT;

- 1 (g) All past and present lists of friends created by the SUBJECT ACCOUNT;
- 2 (h) All records of Facebook searches performed by the SUBJECT ACCOUNT;
- 3 (i) The length of service (including start date);
- 4 (j) The means and source of payment for such service (including any credit
- 5 card or bank account number) and billing records;
- 6 (k) All records pertaining to communications between Facebook and any
- 7 person regarding the user or the user's Facebook account, including
- 8 contacts with support services and records of actions taken;
- 9 (l) Names (including subscriber names, Facebook user IDs, and screen
- 10 names);
- 11 (m) Addresses (including mailing addresses, residential addresses, business
- 12 addresses, and e-mail addresses);
- 13 (n) Local and long distance telephone connection records;
- 14 (o) Linked accounts; and
- 15 (p) Telephone or instrument numbers or identities (including MAC addresses).
- 16 B. All records and other information (not including the contents of communications)
- 17 relating to the SUBJECT ACCOUNT, including:
- 18 (a) Records of user activity for each connection activity for each connection
- 19 made to or from the SUBJECT ACCOUNT, including log files; messaging
- 20 logs; the date, time, length, and method of connections; data transfer
- 21 volume; user names; and source and destination of Internet Protocol
- 22 addresses;
- 23 (b) Information about each communication sent or received by the SUBJECT
- 24 ACCOUNT, including the date and time of the communication, the method
- 25 of the communication (such as source and destination email addresses, IP
- 26 addresses, and telephone numbers); and
- 27 (c) Records of any Facebook accounts that are linked to the SUBJECT
- 28 ACCOUNT by machine cookies (meaning all Facebook user IDs that

1 logged into Facebook by the same machine or device as the SUBJECT
2 ACCOUNT).

3 **II. Information to be seized by the government**

4 All information described above in Section I that relates to the ongoing narcotics
5 investigation described in the Affidavit (i.e., felony violations of Title 21, United States
6 Code, Sections 841(a)(1) and 846, Distribution of and Conspiracy to Distribute
7 Controlled Substances), including, for the user ID identified on Attachment A,
8 information pertaining to the following matters:

- 9 (a) Any content including e-mails, messages, texts, photographs (including
10 metadata), videos (including metadata), visual images, documents,
11 spreadsheets, address lists, contact lists or communications of any type
12 which could be used to identify the user and or their location.
- 13 (b) Records relating to who created, used, or communicated with the user ID,
14 including records about their identities and whereabouts.
- 15 (c) All subscriber records associated with the SUBJECT ACCOUNT,
16 including name, address, local and long distance telephone connection
17 records, or records of session times and durations, length of service
18 (including start date) and types of service utilized, telephone or instrument
19 number or other subscriber number or identity, including any temporarily
20 assigned network address, and means and source of payment for such
21 service including any credit card or bank account number.
- 22 (d) Any and all other log records, including IP address captures, associated
23 with the SUBJECT ACCOUNT; and
- 24 (e) Any records of communications between Facebook and any person about
25 issues relating to the account, such as technical problems, billing inquiries,
26 or complaints from other users about the SUBJECT ACCOUNT. This is to
27 include records of contacts between the subscriber and the provider's
28

1 support services, as well as records of any actions taken by the provider or
2 subscriber as a result of the communications.
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